IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

CWP.No. 251 of 2004

Date of Decision : 12.6.2007

Ramji & others …Petitioners.

Versus:

State of H.P. & others …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] No.

For the petitioners: Mr. Surinder Sharma, Advocate.

For respondents 1 & 2.: Mr. J. K. Verma, Deputy Advocate General.

For respondents Nos 2, 3, 5, 8, 13 & 14 : Mr. J. R. Poswal, Advocate.

Sanjay Karol, J (Oral).

This judgment is being dictated in open Court in presence of the learned counsel for the parties.

Petitioners herein have assailed the order dated 21st December, 1999 (Annexure PC) passed by the Settlement Officer, Consolidation of Holdings, Bilaspur, Himachal Pradesh in case No. 2 of 1993 titled as Paras Ram & others vs. Ramji & others; the order dated 7th January, 2004 passed by the Director, Consolidation of Holdings, H.P. in case No. 26 of 2002 titled as Balak Ram & Others vs. Ramji & others.

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Vide order dated 25th February, 1993, the Consolidation Officer, Una, in case No. 176 of 1992, in exercise of his powers under the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 (hereinafter referred to as 'the Act') allotted land to the petitioners and the respondents in the following manner:-

Petitioners

5 biswas of land comprised in Khasra No. 95/8/1 belonging to the respondents was allotted to the petitioners.

Respondents.

1.7 bighas of land comprised in Khasra No. 86/1 belonging to the petitioners was allotted to the respondents. The land is situated in village Dabni, District Una (H.P.).

Aggrieved by the said order, respondents herein preferred an appeal under Section 30(3) of the Act before the Settlement Officer, Consolidation of Holdings, Bilaspur, which was registered as case No. 2 of 1993 titled as Paras Ram & others vs Ramji & others. During the pendency of the appeal, on the joint request of the parties, spot inspection was carried out on 21st December, 1999 and after some deliberations and persuasion, the parties mutually agreed for distribution of land and preparation of revenue record in terms thereof and the appeal was disposed of as such. The said agreement, mutually entered into between the parties was duly recorded and reflected in the order dated 21st December, 1999 of the Settlement Officer. In terms of the said order, the land falling to the share of the parties was as under:-

"Land agreed to be given to the petitioners in village Dabni, Distt. Una .

i) 5 biswas of land bearing khasra No. 95/8/1

ii) 1.7 bighas of land bearing khasra No. 86/1

Land agreed to be given to the respondents in Village Dehla, Distt. Una.

12 biswas of land bearing khasra No. 556/1."

Inspite of the aforesaid agreement, petitioners still preferred an appeal under Section 30(4) of the Act, which was registered as case No. 50 of 2000 and was allowed vide orders dated 7.7.2001 by the Additional Director, Consolidation.

Aggrieved by the said order, the respondents herein preferred a revision petition under Section 54 of the Act before the Director, Consolidation of Holdings, which was registered as case No. 26 of 2002 titled as Balak Ram & others vs. Ramji & others and was allowed vide orders dated 7.1.2004 and the order of reversal dated 7.7.2001 was set aside.

Perusal of the order dated 21st December, 1999 makes it abundantly clear that the said order was passed only after the parties jointly requested the Revenue Officer not only to visit the site but also distribute / partition / allot the land in terms of their agreement. The same was duly recorded and reflected in the order as also in the revenue record. The Revisional Authority while setting aside the order dated 7.7.2001 passed by the Additional Director, Land Consolidation Department, has recorded this fact of compromise. He has found fault with the order passed by the Additional Director on the ground that there was no justification or reason given by him to have allotted 5 biswas of land for extension of abadi to the petitioners.

I have perused the record and I find no infirmity or illegality in the orders under challenge. The first order is a consent order and the

second order is a well reasoned order with which I see no reason to interfere in exercise of jurisdiction under Article 226 of the Constitution of India. The Additional Director, Consolidation ought to have not entertained the appeal against the consent order.

In this view of the matter, the present writ petition is dismissed.

(Sanjay Karol)
Judge.

June 12, 2007.
(rana)